

## CEMETERY BOARD MEETING

### MINUTES

January 20, 2010

The Cemetery Board met on January 20, 2010, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia. The following members were present:

Randy Gleason, Chair  
David Gilliam, Vice-Chair  
Mike Kirsch  
Delores King  
Isabel Berney

Board member not present: K. Carter Bell

DPOR staff present for all or part of the meeting included:

Jay DeBoer, Director  
Mark Courtney, Deputy Director  
Christine Martine, Executive Director  
Bonnie Rhea Adams, Director of Complaint  
Analysis & Resolution  
Herb Nichols, Investigator  
Earlyne Perkins, Legal Analyst  
Emily Trent, Administrative Assistant

Steven Jack, from the Office of the Attorney General was present.

Mr. Gleason called the meeting to order at 9:00 AM

#### **Call to Order**

A motion was made by Mr. Kirsch and seconded by Ms. Berney to approve the agenda. The motion passed unanimously. Members voting "Yes" were Berney, Gilliam, Gleason, King and Kirsch.

#### **Agenda**

A motion was made by Ms. Berney and seconded by Mr. Kirsch to approve the following minutes: October 21, 2009, Board Meeting; December 10, 2009, Informal Fact-Finding Conference; and January 7, 2010, Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Berney, Gilliam, Gleason, King and Kirsch.

#### **Minutes**

Michael Doherty, Virginia Cemetery Association member, addressed the Board concerning House Bills 329, 598 and 1079. No action was taken by the Board.

**Public Comment**

Randy Minter, President of the Board of Funeral and Embalmers, addressed the Board concerning the Board's position on protecting perpetual care trust funds, and deciding if only capital gains should be used to offset capital losses to preserve corpus of trust. No action was taken by the Board.

Kenneth Bell, former Cemetery Board member, addressed the Board with concerns about consumer protection and questioning the Board's position on protecting perpetual care trust funds and deciding if only capital gains should be used to offset capital losses to preserve corpus of trust. Mr. Bell also asked the Board to reverse the decision made at the October, 2009 Board meeting. No action was taken by the Board.

Mr. Gleason turned the position of Chair over to Mr. Gilliam and recused himself from the meeting.

**Transfer of Chair**

In the matter of **File Number 2010-02019, Jason Fiddler**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Mr. Fiddler, applicant, appeared and addressed the Board. A motion was made by Ms. Berney and seconded by Ms. King to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Fiddler's application for a cemetery sales personnel registration. The motion passed unanimously. Members voting "Yes" were Berney, Gilliam and King.

**File Number 2010-02019,  
Jason Fiddler**

Due to a possible conflict of interest, Mr. Kirsch and Mr. Gleason did not vote or participate in discussion in this matter.

In the matter of **File Number 2010-02020, Jason Fiddler**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Mr. Fiddler, applicant, appeared and addressed the Board. A motion was made by Ms. Berney and seconded by Ms. King to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Fiddler's application for a cemetery sales personnel registration. The motion passed unanimously. Members voting "Yes" were Berney, Gilliam and King.

**File Number 2010-02020,  
Jason Fiddler**

Due to a possible conflict of interest, Mr. Kirsch and Mr. Gleason did not vote or participate in discussion in this matter.

In the matter of **File Number 2010-00463, SCI Virginia Funeral Services, Inc.**, the Board reviewed the Consent Order as seen and agreed to by SCI Virginia Funeral Services, Inc. A motion was made by Mr. Kirsch and seconded by Ms. King to accept the Consent Order wherein SCI Virginia Funeral Services, Inc. admits to 3 *violations* of §54.1-2325.A (Count 1) of the *Code of Virginia*, and agrees to a monetary penalty of \$300.00 for each violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$1,050.00. The motion passed unanimously. Members voting “Yes” were Berney, Gilliam, Gleason, King and Kirsch.

**File Number 2010-00463,**  
**SCI Virginia Funeral**  
**Services, Inc.**

In the matter of **File Number 2010-00895, SCI Virginia Funeral Services, Inc.**, the Board reviewed the Consent Order as seen and agreed to by SCI Virginia Funeral Services, Inc. A motion was made by Mr. Kirsch and seconded by Mr. Gleason to accept the Consent Order wherein SCI Virginia Funeral Services, Inc. admits to 2 *violations* of §54.1-2325.A (Count 1) of the *Code of Virginia*, and agrees to a monetary penalty of \$400.00 for each violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$950.00. The motion passed unanimously. Members voting “Yes” were Berney, Gilliam, Gleason, King and Kirsch.

**File Number 2010-00895,**  
**SCI Virginia Funeral**  
**Services, Inc.**

In the matter of **File Number 2009-04479, Sherwood Memorial Park, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Kirsch and seconded by Ms. Berney to accept the Consent Order wherein Sherwood Memorial Park, Inc. admits to a violation of §54.1-2324 (Count 1) of the *Code of Virginia*, admits to a violation of §54.1-2333 (Count 2) of the *Code of Virginia*, and agrees to no monetary penalty for the violation contained in Count 1, and agrees to no monetary penalty for the violation contained in Count 2, and agrees to 150.00 in Board costs for a total of \$150.00. The motion passed unanimously. Members voting “Yes” were Berney, Gilliam, Gleason, King and Kirsch.

**File Number 2009-04479,**  
**Sherwood Memorial**  
**Park, Inc.**

Mr. Gleason returned and resumed the position of Chair.

**Transfer of Chair**

In the matter of **File Number 2010-02371, Calvary Memorial Park**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Mr. Gilliam and seconded by Ms. Berney to accept the recommendation to

**File Number 2010-02371,**  
**Calvary Memorial Park**

approve Michael H. Doherty as the trustee of the perpetual care and preneed trust funds for Calvary Memorial Park, Inc. contingent upon providing evidence of fidelity bonds in force in the amount of the trusts. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Gleason, Gilliam and Kirsch.

Ms. Martine updated the Board on House Bill 598 and House Bill 1079. **Administrative**  
A motion was made by Mr. Gilliam and seconded by Ms. King to oppose both House Bill 598 and House Bill 1079. The motion passed unanimously. Members voting "Yes" were Bell, Berney, Gleason, Gilliam and Kirsch.

The Board discussed capital gains and losses. No action was taken by the **Old Business**  
Board.

The meeting adjourned at 9:53 A.M. **Adjourn**

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Randolph Gleason, Chair

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Jay DeBoer, Secretary